

REMARKS

Claims 1-2, 4-7, 10-11 and 13-19 are pending and under consideration. Claims 8-9 and 18 are withdrawn from consideration.

The rejections under 35 U.S.C. § 103 are respectfully traversed. For example, claim 1 recites grill pipes made of a metallic material and water tanks made of a resin material and each of the water tanks has a lower portion and a side portion, with the lower portion of each of the water tanks, which receives the ends of the grill pipes, being thicker than the side portion.

In the cited references, the pipes and the tanks are metallic. According to this combination of metal and metal, it would not have been necessary for the tanks to have a thicker lower portion. Specifically, the metal/metal does not result in deformation of the tank because the materials have the same expansive properties. Thus, there would have been no motivation to modify the metallic tanks to have a thicker lower portion.

Furthermore, it was previously noted that the claimed features go beyond simply increasing thickness uniformly, but include selective increases in thickness.

In response, the Examiner states that where general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. The Examiner relies upon *In re Aller*, *Lacey and Hall* 105 USPQ 233 (CCPA 1955) and *In re Swain and Adams* 70 USPQ (CCPA 1946). However, *In re Aller* is distinguishable from the instant case. In *In re Aller*, the discussion surrounded the ranges of temperature and/or concentration. In contrast, the claim features at issue relate to thickness. Similarly, *In re Swain* also related to proportions of chemical compositions, but did not address the question of thickness.

Furthermore, claim 19 recites one of the grill pipes comprising a first horizontal portion having an end in contact with one of the water tanks and a second horizontal portion in fluid communication with the first horizontal portion and below the first horizontal portion to receive food thereon.

It was previously argued that "the cited references do not teach first and second horizontal portions. Instead, the cited references all teach curved or angled elements. Even if such elements inherently have a small horizontal portion, there would not be first and second horizontal portions, as claimed."

In response, the Examiner "disagrees with applicants overly narrow interpretation of the claim language." However, it is unclear how the previous arguments "narrowly interpret" these claim features. Present Fig. 2 illustrates laterally extended part 21a and horizontally extended part 21d, for example, as first and second horizontal portions. In contrast, the cited references have only the theoretical horizontal portion at the bottom of the curve, which reads on only a single horizontal portion.

At page 7 of the Office Action, the Examiner also indicates that a statement of criticality is absent from the specification. However, the Examiner has not provided any authority for the position that the advantages of the invention must be set forth in the specification. The Examiner's attention is drawn to M.P.E.P. 716.02(f), which specifically states that evidence and arguments directed to advantages not disclosed in the specification cannot be disregarded. This portion of the M.P.E.P. refers to *In re Chu*, 36 USPQ2d 1089 (Fed. Cir. 1995), in which the Federal Circuit stated "the Board erred in apparently requiring Chu's evidence and arguments responsive to the obviousness rejection to be within his specification in order to be considered." *In re Chu*, 36 USPQ2d at 1094.

Accordingly, withdrawal of the rejections is requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

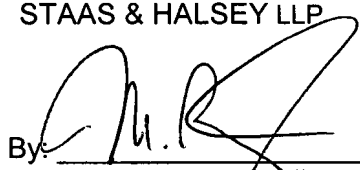
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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